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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/295,577

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EXAMINER

GILLIGAN, CHRISTOPHER L

ART UNIT

PAPER NUMBER

3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/295,577	Applicant(s) HALAVAIS ET AL.	
	Examiner Luke Gilligan	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 11, 16, 17 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 11, 16-17, and 24-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

1. In the amendment filed 5/2/07, the following has occurred: claims 1, 24, and 30 have been amended. Now, claims 1-4, 6, 11, 16-17, and 24-34 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4, 6, 11, 16-17, and 30-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the phrase "client node...having no dedicated resident software that is an aid in determining..." It is unclear what specifically is excluded by this negative limitation. For example, a particular web browser software program is necessary for a client node to view a web site. In addition, since a web browser is necessary for interacting with a web site, it is clear used as an "aid in determining." Therefore, it is respectfully submitted that one of ordinary skill in the art could not ascertain what exactly the scope of the claim is based on this negative limitation.
5. Claims 30 recites a similar limitation and is, therefore, rejected for similar reasons as given above.
6. Claims 2-4, 6, 11, 16-17, and 31-34 are rejected for the same reasons as given above through dependency.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3, 6, 11, 16-17, 24, 26-27, 29-32, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Hassell et al., U.S. Patent Application Publication No. 2004/0107439.

9. As per claim 1, Hassell teaches a method comprising: a) communicating on demand, from an information server through a wide area network to a device connected to the wide area network information from a database populated by a multiplicity of entries denoting availability for a venue (see paragraph 0131); b) displaying the information including a plurality of available individual seats at the venue such that an end user connected to the wide area network can view the information on a client node unaffiliated with the server as an aid in determining a specific individual seat conforming to a need of the end user (see paragraph 0131); c) providing over the wide area network to the end user the capability of interactively selecting the specific individual seat from among the plurality of individual seats displayed (see paragraph 0132); d) receiving from the end user a selection of the specific individual seat (see paragraph 0132); e) accepting over the wide area network from the end user a payment for the seat (see paragraph 0132); f) returning over the network to the end user verification of the successful completion of the payment (see paragraph 0132).

10. As per claim 2, Hassell teaches the method of claim 1 as described above. Hassell further teaches the seat sought is for a theater or theater type setting (see paragraph 0131).

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11. As per claim 3, Hassell teaches the method of claim 1 as described above. Hassell further teaches the seat sought is for a stadium type setting (see paragraph 0131).

12. As per claim 6, Hassell teaches the method of claim 1 as described above. Hassell further teaches a communication connection between the information server and the end user includes one of a wire, a cable, and a telephone connection (see paragraph 0079).

13. As per claim 11, Hassell teaches the method of claim 1 as described above. Hassell further teaches a communication connection between the information server and the end user includes a satellite link (see paragraph 0079).

14. As per claim 16, Hassell teaches the method of claim 1 as described above. Hassell further teaches a communication connection between the information server and the end user includes a wireless link (see paragraph 0079).

15. As per claim 17, Hassell teaches the method of claim 2 as described above. Hassell further teaches a communication connection between the information server and the end user is wireless (see paragraph 0079).

16. As per claim 24, Hassell teaches a method comprising: receiving at a server a request for a venue from a web browser executing on a client node remote from the server (see paragraph 0131); transmitting, responsive to the request, from the server an indication of specific availability including a representation of a plurality of specific individual seats available in the venue, the indication of specific availability directed to the client node (see paragraph 0131); receiving at the server a specific indication of a client preference identifying a particular individual seat for purchase from the plurality of specific individual seats available (see paragraph 0132); and removing the client preferences from any future indication of specific availability (see paragraph 0131).

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17. As per claim 26, Hassell teaches the method of claim 24 as described above. Hassell further teaches the indication of specific availability includes a graphical representation of at least a portion of a seating chart for the venue, and wherein the graphical representation shows available seats in a first representation and previously sold seats in a second representation (see paragraph 0131).

18. As per claim 27, Hassell teaches the method of claim 24 as described above. Hassell further teaches the indication of specific availability is transmitted as one of an HTML page and a java applet (see paragraph 0088).

19. As per claim 29, Hassell teaches the method of claim 24 as described above. Hassell further teaches accepting payment information at the server sufficient to permit access to the specific client preference (see paragraph 0132); conducting an electronic payment transaction (see paragraph 0132); and providing an electronic receipt (see paragraph 0132).

20. Claims 30-32 and 34 recite substantially similar limitations to those already addressed in claims 24, 26, and 28 and, as such, are rejected for similar reasons as given above.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 25, 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hassell et al., U.S. Patent Application Publication No. 2004/0107439 in view of Helbling et al., U.S. Patent No. 5,797,126.

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23. As per claim 25, Hassell teaches the method of claim 24 as described above. Hassell does not explicitly teach retrieving from a database an image showing a view from the seat indicated by the client preference and transmitting the image to the client. Helbling teaches retrieving from a database an image showing a view from the seat indicated by the client preference (see column 7, lines 54-59); and transmitting the image to the client (see column 7, lines 54-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the system of Hassell. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of providing additional useful information to the end user when deciding which seat to purchase.

24. Claims 28 and 33 recite substantially similar additional limitations to those already addressed in claim 25 and, as such, are rejection for similar reasons as given above.

25. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hassell et al., U.S. Patent Application Publication No. 2004/0107439 in view of Walker et al., U.S. Patent No. 5,897,620.

26. As per claim 4, Hassell teaches the method of claim 1 as described above. Hassell does not explicitly teach that the seat sought is for an airplane or airliner. However, network-based airline seat reservation systems are old and well known in the art as evidenced by Walker (see column 2, lines 43-53). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the system of Hassell to enable airline seat reservation. One of ordinary skill in the art would have been motivated to expand the system in such a manner for the purpose of providing a greater variety of content to the end user of Hassell.

Response to Arguments

27. Applicant's arguments directed to the newly filed declaration are moot in view of the new grounds of rejection detailed above. In particular, a declaration is ineffective to overcome a rejection under 35 U.S.C. 102. However, the declaration would have been effective to overcome the previous rejection of claim 24 in view of Helbling and Kay since claim 24 is now commensurate in scope with the evidence of commercial success. However, the declaration would have been ineffective to overcome the remaining rejections in view of previously applied Helbling and Kay. Although the Examiner appreciates the citing of case law in support of the contention that the evidence of commercial success need not be commensurate in scope with the claims, the MPEP explicitly state the opposite at 716.03(a). Therefore, for this argument to be persuasive, the Examiner would have to disregard the policy set forth in the MPEP.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- ElectroTix teaches a web-based seat purchasing system in which seating charts are interactively displayed for selection of available seats.
- Anderson et al. discloses web-based, interactive selection of seats from a seating display for purchase through Travelocity.com.
- Expedia.com teaches web-based, interactive selection and purchase of seats from a seating display.


29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

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30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

7/21/07


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